

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 01-11-09
Rule ID(s): 3956
File Date: 01/14/09
Effective Date: 05/29/09

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-205 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

Agency/Board/Commission: Department of State
Division: Charitable Solicitations and Gaming
Contact Person: Todd R. Kelley, Director
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Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised

Chapter Number	Chapter Title
1360-3-1	Regulation of the Solicitation of Funds for Charitable Purposes
Rule Number	Rule Title
1360-3-1-.02	Filing of Registration

Chapter 1360-3-1
Regulation of the Solicitation of Funds for Charitable Purposes

Amendments

Rule 1360-3-1-.02(2) Filing of Registration Statement is amended by deleting the words "an annual report filed by the charitable organization with the Internal Revenue Service" and adding the words "the IRS Form 990 for its most recent accounting year" so that, as amended, the rule shall read:

1360-3-1-.02

- (1) In lieu of the registration application prescribed by the Secretary of State, an organization may submit a Unified Registration Statement, along with all accompanying documents required by the Secretary for registration.
- (2) Every charitable organization which has completed a fiscal year of operation shall file with its application for registration the IRS form 990 for its most recent accounting year,

unless the organization is not required to file such report. Additionally, the organization shall file an audited financial statement if the organization's gross revenue exceeds five hundred thousand dollars (\$500,000), excluding grants from government agencies and private foundations.

Authority: T.C.A. § 48-101-504(a-e); T.C.A. § 48-101-506; Chapter 523 §14 of the Public Acts of 2007. Administrative History: original rule filed June 17, 1977; effective July 18, 1977. Amendment filed October 4, 1982; effective November 3, 1982. Public necessity rule filed August 22, 2007; expired February 3, 2008. Repeal and new rule filed November 6, 2007; effective March 28, 2008. Amendment filed June 30, 2008; effective October 28, 2008. Amendment filed _____, 2009; effective _____, 2009.

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Department of State, Division of Charitable Solicitations and Gaming on January 2, 2009, and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Date: 1-2-2009

Signature: _____

Name of Officer: Todd R. Kelley

Title of Officer: Director, Division of Charitable Solicitations and Gaming

Subscribed and sworn to before me on: 1/2/2009

Notary Public Signature: _____

My commission expires on: _____

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Attorney General and Reporter

1-13-09

Date

Department of State Use Only

Filed with the Department of State on: 1/14/09

Effective on: 5/29/09

Riley C. Darnell
Riley C. Darnell
Secretary of State

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Not applicable

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The General Assembly enacted the Charitable Solicitations Act, Tennessee Code Annotated §§ 48-101-501, et. seq., for the regulation of charitable organizations and professional fundraisers. Tennessee Code Annotated § 48-101-503(b) gives the Secretary of State authority to promulgate rules with respect to charitable gaming as more fully set out below. These are new rules.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated § 48-101-503(b) - Authority to promulgate rules to regulate activities of charitable organizations, professional solicitors, and professional fundraising counsel.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons, organizations or corporations directly affected by these rules are organizations in this state that solicit funds from the public and organizations that assist charities in raising money from the public.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules should have no impact on existing state government revenue.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Todd Kelley, Director, Division of Charitable Solicitations and Gaming.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Todd Kelley, Director, Division of Charitable Solicitations and Gaming.

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(i) Any additional information relevant to the rule proposed for continuation that the committee requests.

None